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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 GENOMATICA, INC.,

12 Plaintiff,

13 v.  
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15 ICELANDIC GENOMIC VENTURES  
16 HOLDING, S.A.R.L. et al.,

17 Defendants,  
18

19 AND RELATED COUNTERCLAIMS  
20 AND CROSS-CLAIMS.  
21

Case No. 3:12-cv-0268-GPC-BGS

**AMENDED ORDER**

**(1) GRANTING JOINT MOTION  
REGARDING IGVH'S MOTION  
FOR SUMMARY JUDGMENT  
(ECF NO. 77);**

**(2) GRANTING MOTION FOR  
SUMMARY JUDGMENT (ECF  
No. 74);**

**(3) GRANTING IN PART AND  
DENYING IN PART JOINT  
MOTION TO RESCHEDULE  
HEARING AND RETITLE  
SHARES (ECF NO. 79)**

22 This is an interpleader action in which Genomatica, Inc. ("Genomatica") asserts  
23 it is an innocent stakeholder in a dispute over the ownership of certain shares of its  
24 stock.<sup>1</sup> (ECF No. 1.) In its Complaint, Genomatica alleged a dispute had arisen  
25 between Iceland Genomic Ventures Holding S.à.R.L. ("IGVH"), on the one hand, and  
26 Iceland Genomic Partners ("IGP"), on the other hand. (Id.)  
27

28 <sup>1</sup> The Court issues this Amended Order for purposes of clarifying that the Clerk of Court shall  
release the Genomatica shares of stock to counsel for Genomatica, as set forth in item number 4 of the  
Court's orders.

1 On May 22, 2012, IGVH filed an answer to Genomatica's Complaint, also  
2 asserting counterclaims against Genomatica and cross-claims against IGP, Tryggvi  
3 Petursson ("Petursson"), and Iceland Genomic Venture Partners, S.A. ("IGVP") (all  
4 three collectively, "Petursson Defendants"). (ECF No. 7.)

5 On July 10, 2012, IGP filed an answer to Genomatica's Complaint. (ECF No.  
6 18.) The Petursson Defendants, however, never responded to IGVH's cross-claims.  
7 Accordingly, this Court entered default judgment on IGVH's cross-claims against the  
8 Petursson Defendants on January 31, 2013. (ECF No. 60).

9 On March 21, the Court granted Genomatica's Motion to Dismiss & Discharge,  
10 denied IGVH's initial Motion for Summary Judgment, and granted Genomatica's  
11 Motion to Dismiss IGVH's Counterclaims. (ECF No. 64.) In granting Genomatica's  
12 Motion to Dismiss & Discharge, the Court required Genomatica to deposit with the  
13 Clerk of Court the shares that were actually in dispute, to wit, the 400,000 shares  
14 retitled in the names of the Petursson Defendants. Genomatica deposited said shares  
15 on March 29, 2013. (ECF No. 67.)

16 The Court further directed IGVH to take the necessary steps to dispose of this  
17 interpleader action. Thus, on April 12, 2013, IGVH filed its second motion for  
18 summary judgment, in which it asks the Court to enter judgment in IGVH's favor as  
19 to ownership of the disputed Genomatica shares. (ECF No. 74.) IGVH further asked  
20 the Court to Compel Genomatica to deposit with the Court the other 3,100,000 shares  
21 that Genomatica initially asserted were in dispute, but that the Court found were not  
22 actually in dispute given that said shares were retitled to IGVH's parent company.  
23 IGVH further asked the Court to compel Genomatica to issue 3,500,000 share  
24 certificates of the same class and series as Genomatica stock certificates Nos. PA 1 and  
25 PA2, reflecting IGVH's initial purchase of said shares.

26 On May 3, 2013, the parties filed a joint motion regarding IGVH's Motion for  
27 Summary Judgment, in which the parties agree that IGVH's request for an order  
28 compelling the deposit of the undisputed 3,100,000 shares should be withdrawn. (ECF

1 No. 77.) Having considered said joint motion, the Court will grant it.

2 On July 24, 2013, the parties filed a second joint motion reflecting the parties'  
3 agreement that the Court may order the 400,000 shares deposited with the Court to be  
4 retitled in IGVH's name, and that IGVH's pending Motion for Summary Judgment  
5 should be denied as moot. (ECF No. 79.) Having considered said joint motion, the  
6 Court will deny it as moot.

7 Having considered IGVH's Motion for Summary Judgment, along with the  
8 parties' two subsequent joint motions pertaining thereto, the Court finds it appropriate  
9 to grant IGVH's Motion for Summary Judgment as modified by the parties' subsequent  
10 joint motions. Given the Court's entry of default judgment against the Petursson  
11 Defendants and the Court's dismissal of Genomatica from the interpleader portion of  
12 this case, the Court finds it more appropriate to grant IGVH's Motion for Summary  
13 Judgment to ensure that ownership of the disputed 400,000 shares is finally resolved  
14 by judgment of the Court, rather than by stipulation of the parties.

15 Remaining in this case is Genomatica's Motion for Attorney Fees, (ECF No. 70),  
16 which the Court scheduled for a hearing on August 23, 2013, (ECF No. 71). On July  
17 24, 2013, the parties filed a joint motion to move up the hearing on Genomatica's  
18 Motion for Attorney Fees to August 16, 2013. (ECF No. 79.) Having considered said  
19 joint motion, the court will grant it.

20 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 21 1. The parties' Joint Motion Regarding IGHV's Motion for Summary  
22 Judgment, (ECF No. 77), is **GRANTED**;
- 23 2. IGVH's Motion for Summary Judgment, (ECF No. 74), is **GRANTED** as  
24 modified by the parties' stipulation that Genomatica not be compelled to  
25 deposit the 3,100,000 shares of undisputed Genomatica stock;
- 26 3. The Clerk of Court shall enter judgment in favor of IGVH on the issue of  
27 ownership of the 400,000 shares of disputed Genomatica stock that were  
28 retitled in the name of the Petursson Defendants;

- 1           4.     The Clerk of Court shall release the currently deposited 400,000 shares
- 2                 of Genomatica stock to counsel for Genomatica so they may be retitled in
- 3                 IGVH's name;
- 4           5.     Genomatica shall deliver to IGVH, via counsel for IGVH, the 400,000
- 5                 shares of retitled stock within thirty days of entry of this Order;
- 6           6.     Within seven days of delivering the retitled stock to IGVH, counsel for
- 7                 Genomatica shall file a declaration indicating that the retitled stock has
- 8                 been delivered to IGVH;
- 9           7.     The hearing on IGVH's Motion for Summary Judgment, currently set for
- 10                August 23, 2013, is **VACATED**;
- 11           8.     The parties' Joint Motion to Reschedule Hearing on Genomatica's Motion
- 12                for Attorney Fees and Retitle the 400,000 Shares Deposited with the
- 13                Court, (ECF No. 79), is **GRANTED IN PART** and **DENIED IN PART**;
- 14           9.     The hearing on Genomatica's Motion for Attorney Fees is moved up to
- 15                **August 16, 2013, at 1:30 p.m.**

16  
17 DATED: July 29, 2013

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19 HON. GONZALO P. CURIEL  
20 United States District Judge  
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